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SUBJECT: PRECLEARANCE CONSULTATIVE GROUP REVIEWS POLICIES
AND PROCEDURES

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11. (SBU) Summary: The inaugural meeting of the Preclearance Consultative Group (PCG) took place in Ottawa on December 13. The U.S. side was represented by the State Department, Customs and Border Protection (CBP), and the Transportation Security Administration. Canadian officials were from Foreign Affairs Canada, Transport Canada, and the Canada Border Services Agency (CBSA). Terry Breese, Director of the Office of Canadian Affairs, Department of State, led the U.S. delegation. Tobias Nussbaum, Director, U.S. Relations Division, Foreign Affairs Canada, led the Canadian delegation. This was the first formal review since conclusion of the Aviation Preclearance Agreement in 2001 of policies and procedures at the seven air preclearance facilities in Canada (the eighth will be in Halifax). Issues raised included congestion at preclearance areas, especially during peak hours; intransit and progressive preclearance; and U.S. input ("consultation") to the process of granting security clearances for Canadian employees having access to the preclearance areas. Government of Canada (GOC) officials agreed that a mechanism can probably be developed whereby the U.S. can check Canadians working in the preclearance areas against U.S. data bases, though the extent of such information sharing was not resolved at this meeting. Several members of the group will meet again soon to address the immediate concerns of the Halifax International Airport Authority (HIAA) regarding the installation of radiation detection equipment at the new preclearance facility there. Other follow up items will be handled through correspondence between PCG member agencies. End summary.

A Brief History of Preclearance in Canada

12. (U) Following a pre-meeting in Washington in October, 2005, and numerous e-mail and telephone exchanges, the members of the PCG finally sat down in Ottawa on December 13 to work on a mutually-agreed agenda. The U.S. has provided preclearance customs and immigration services for passengers departing Canada for the United States from some Canadian airports since the 1950's. Being precleared in Canada allows passengers the flexibility to land in U.S. destination cities which are not serviced by U.S. inspection agencies. A formal preclearance agreement was signed by Canada and the U.S. in 1974; that was subsequently updated by an agreement signed in January 2001 and brought into force in May 2003. Preclearance is presently offered at seven airports: Calgary, Edmonton, Montreal, Ottawa, Toronto, Vancouver, and Winnipeg. Halifax is scheduled to begin preclearance on October 1, 2006. Although the 2001 agreement authorizes Canada to offer preclearance at 13 U.S. airports, no facilities have been opened in the U.S. The 2001 agreement also stipulated that a Preclearance Consultative Group would meet on a regular basis to address issues which could not be resolved at the local (individual airport) level, and that the PCG should conduct a joint review of the preclearance program. The December 13 meeting was the first PCG review.

Major U.S. Issues/Agenda Items

13. (SBU) Perhaps the foremost concern of U.S. preclearance personnel is ensuring physical security in the preclearance area itself. U.S. officers working preclearance are not armed. They must rely on armed Canadian police officers to respond if a passenger threatens or assaults them, or must be forcibly detained, removed, or arrested. Our officers are also vulnerable to any weapon, explosive, or biological agent that a would-be terrorist or hijacker might be trying to smuggle aboard a flight to the U.S. The U.S. position is that for any new preclearance facilities, or extensive remodeling of existing facilities, we want baggage and passenger security screening to be done by Canadian Air Transport Security Authority (CATSA) personnel in front of, not after, the preclearance area (see para. 5 also). Second,

many Canadian airport, airline, contractor, and vendor employees have access to the preclearance area. The U.S. is concerned that Transport Canada, which grants security clearances that allow the airport authorities to issue identification badges, does not have access to all potentially detrimental information concerning an applicant for employment. The U.S. wants to ensure that a Canadian with a record in the United States does not slip through the Transport Canada background investigation. In addition to normal criminal checks, which can be conducted by Transport Canada and CBSA now, the U.S. also wishes to check Canadians who may work in preclearance areas against CBP and Immigration and Customs Enforcement records.

14. (SBU) In response to U.S. arguments, GOC officials noted that the GOC has concluded that sharing of an applicant's name with CBP may not run counter to the Canadian Charter of Rights and Freedoms (equivalent to the U.S. Bill of Rights). However, the GOC believes that supplying extensive biographic data raises Charter concerns but left date and place of birth for further consideration. The U.S. side pointed out that the more data supplied, the less of a problem we will have with false matches. The GOC offered to work up a model of exactly how information sharing between Transport Canada and CBP might work. An issue for Canada is that the GOC might be put in the position of justifying and explaining why a Canadian citizen was denied the right to work on Canadian soil; i.e., the preclearance area. The U.S. noted that there might be occasions when we would not be able to share with the GOC the reason why we request a hold on a particular applicant.

15. (U) On the location of CATSA screening, Canadian officials agreed that security screening will be placed in front of preclearance facilities at all new or extensively remodeled airports, a commitment we have been seeking for some time. Regarding security in general at preclearance areas, the U.S. noted that access to the area is a problem. Sometimes non-passengers get all the way back to the preclearance area without having been asked by airport personnel for a ticket or boarding pass. It was noted that at Vancouver airport, the "panic button" in the preclearance area is not connected to any warning alarm. In addition, the armed guard stationed at preclearance in Vancouver is in the secondary area and is unable to view (or react to) what is happening in primary inspection. The U.S. agreed to document these and other such incidents in writing and submit them to the GOC for action.

The Case of Halifax

16. (U) CBP reported that the process for starting Halifax preclearance in October 2006 is moving forward. CBP approved the overall building construction plan and has started procurement of equipment. Recruitment of staff has begun. There will be 14 to 19 inspectors in addition to the port director. CBP anticipates that 270,000 passengers per year will be precleared when the facility opens.

17. (U) The status of Halifax preclearance and the opening of the facility on October 1 raises two issues: radiation detection equipment for checked baggage, and the provision of information on checked baggage to CBP inspectors. The U.S. requirement that all airports use such equipment to inspect passengers and baggage was issued after construction of the airport preclearance facility was already approved and underway. The U.S. requirement for information on checked baggage has not been accommodated in the Halifax preclearance facility design blueprints. Finally, the GOC reported that HIAA is under the impression that CBP will pay for the radiation detection equipment, but CBP allowed as how it has not come to a final decision regarding payment for the equipment. The GOC asked for, and the U.S. side agreed to, "technical written explanations" regarding both the radiation detection equipment and checked baggage requirements. U.S. officials offered to meet soon with HIAA to go over these requirements. The GOC suggested that the U.S. encourage HIAA to invite Transport Canada to those meetings as well. Regarding the opening date of October 1 and radiation detection equipment, it was pointed out that handheld scanners could be used until such time as permanent equipment was installed. The U.S. will take into consideration a later start-up date (post-October 1) for the permanent radiation equipment. CBP will provide contact information to HIAA regarding a company in Texas that manufactures the equipment preferred by CBP.

Major Canadian Issues/Agenda Items

18. (U) The GOC raised the issue of congestion at Toronto and Montreal, particularly during peak periods such as pre-holiday travel. Canada also raised the question of CBP's

commitment in terms of personnel, equipment, and other resources to adequately manage renewed growth in passenger and baggage traffic between Canada and the U.S. now that the aviation sector is bouncing back from the declines caused by 9/11. Canada pointed out that the successful negotiation of an Open Skies agreement will further stimulate air traffic between our two countries. The GOC reported that in a recent four-hour meeting with Canadian carriers, two hours were devoted to discussion of the congestion problem. The GOC said that Canadian carriers had even offered to pay an additional dollar to CBP from the Air Travelers Security Charge at preclearance airports for passenger processing.

¶19. (U) Continuing on congestion, Canada pointed out that at the Toronto preclearance area the morning rush hour lineup, when flights are most dense, can be 90 minutes long. Pre- and post-holiday air travelers are also subjected to long waits. The U.S. replied that there must be a coordinated effort by members of the airport council (e.g., airport administration, CBP, CATSA, and the carriers) to reduce congestion. Scheduling most flights of the day during a two-hour morning period, the time considered most popular with travelers, will of course lead to crowding at that preferred flight time and should be addressed by the airport council. CBP pointed out that sometimes it isn't responsible for the congestion. At Vancouver airport, for example, CBP periodically stops processing because CATSA cannot handle the passenger flow.

¶10. (U) Regarding future growth and the commitment of resources, the GOC offered to share with the U.S. studies it has undertaken on airport growth rates. For its part, CBP explained that it has developed models for the staffing of preclearance facilities. CBP's models incorporate best practices and also examine the most efficient use of resources at preclearance facilities. CBP's staffing models are not generally releasable, but CBP will share them with the GOC. The U.S. will feed GOC data on projected growth into CBP staffing models. The two sides expressed confidence that application of the studies and staffing models will enable the two governments to direct the other players involved in airport councils to create conditions to both avoid congestion and meet the demands of anticipated growth. The GOC will encourage Canadian airport authorities and carriers to form councils to work with CBP and CATSA.

¶11. (SBU) The GOC raised the issue of complaints about the preclearance process/procedures. Canadian travelers complain about being "detained" in secondary inspection, and the lack of adequate advance information regarding their right to withdraw their application to enter the United States once the preclearance process has started. Foreign Affairs receives about four complaint letters per month. CBP replied that there is a customer satisfaction form available on which travelers can register their comments about preclearance, including complaints. A passenger can also ask at any time in the preclearance process to speak with a supervisor, and that request will be honored. It was suggested that more signage could be displayed concerning a Canadian's right of withdrawal. (Note: There are signs in the primary inspection area, but not in the secondary area. End note.) CBP offered to send directives to the preclearance ports informing officers of their rights and obligations concerning withdrawal. CBSA also undertook to restart training for CBP officers on how Canadian law applies to the right of withdrawal. Finally, the U.S. agreed to take action on complaint letters received by the GOC, and to provide a written response when appropriate.

¶12. (U) Canada asked that CBP officers be better informed about the process whereby they must register with Foreign Affairs Canada on arrival in country, and apply for an identification card that is issued by the Protocol Office of Foreign Affairs. The officers should also be sure to apply for renewals of passports and work permits prior to their expiration, and to return their identification cards at the end of their assignments in Canada. The U.S. side said that this issue is being addressed. Port directors and Embassy Ottawa are making sure that officers are aware of these requirements.

Intransit Preclearance

¶13. (U) Canada and the U.S. agreed to a joint review of intransit preclearance, whereby passengers from domestic Canadian flights, as well as foreign passengers from international flights, arrive at a preclearance airport and are processed for U.S.-bound flights. Intransit is operational in Vancouver and works well. Domestic and international passengers on their way to the U.S. share the same secure transit facility. The GOC limits the number of carriers (to four) whose passengers can apply for intransit preclearance when they arrive in Vancouver. If CBP finds an international intransit passenger inadmissible to the U.S.,

that passenger is turned over to CBSA, not returned to the carrier for repatriation. To allow CBP to inspect international intransit passengers with adequate time, the carriers fax the Advance Passenger Information System (APIS) data to CBP well before the arrival of the plane in Vancouver. Toronto and Montreal want to begin intransit preclearance, in 2007 and 2008, respectively.

"Progressive Preclearance"

¶14. (U) Canada and the U.S. had finalized pre-9/11 an MOU for a pilot project for progressive preclearance under which passengers could be cleared by CBP in Ottawa who were transiting Toronto or Montreal for U.S.-bound flights. Under that plan, an aircraft would carry only cleared passengers on the domestic leg who were U.S.-bound. At the December 13 PCG meeting, the U.S. agreed to review the pilot and reply. A major challenge in Toronto and Montreal will be sterile areas with adequate security--and size--to hold transit passengers.

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